

How to do the right thing

Examples of good practice that help
consumers address and overcome
periods of financial difficulty



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Introduction

A large amount of positive work has been undertaken in recent years to help consumers in financial difficulty and ensure free high quality independent advice is available to those who need it:

- Regulators, trade associations and firms have developed sector specific rules, guidelines and practices that have driven up standards.
- Advisers and creditors have collaborated to improve the way they help people in debt, such as CASHflow and the common financial statement (CFS).
- Government and industry continue to fund debt advice services that are free to the consumer.

Organisations in the free advice sector wanted to build on this work. In 2010 they published *Do the right thing*, which set out how they believe creditors can achieve good practice in debt collection.¹

Following the launch of this report, local and national government agencies, creditors, debt collectors, bailiffs and advisers came together to form the 'Addressing Financial Difficulties' good practice working party (AFD).

AFD members agree that despite all the positive work that has been undertaken to help struggling consumers some problems still exist:

- The needs of vulnerable consumers are not always met.
- Consumers don't always act early when they are facing financial difficulty.
- Some consumers still ignore their financial difficulties, often 'burying their heads in the sand' in the hope it will all go away.
- Some of those consumers that do engage later give up and stop paying altogether.
- Some advisers and creditors still do not work together in a constructive and positive manner.

But these problems don't always happen. Why is this? And, when they do, how can we overcome them?

This publication seeks to answer these questions and promote constructive engagement between creditors, advisers and consumers, leading to better and more consistent outcomes for all.

It brings examples of good practice from different sectors together to set out a five part approach to addressing financial difficulties:

Part one: Preparation

Part two: Identification

Part three: Encouragement

Part four: Cooperation

Part five: Engagement

1. *Do the right thing*, Citizens Advice, 2010.

Scope

This publication is aimed at and can be used by any organisation that provides debt advice, acts as a creditor, a service provider and/or collects or enforces debts.² From now on these groups will be referred to as either advisers or creditors.

This publication is neither legal guidance nor a code of conduct and should not be viewed as such.³ If a creditor or an adviser does not apply a good practice principle or example from this publication, it does not mean they have done something wrong.

Not all aspects of this publication are applicable to all sectors.

As consumers can be in financial difficulty before they actually fall behind with payment, this guide can apply at any point in a financial relationship.

It is acknowledged that not all people who fall into arrears have long term financial difficulties. Creditors and advisers should take a pragmatic approach and provide consumers with a level of help that is appropriate to their situation.

If it is not explicitly noted, examples of good practice that apply to unsecured debts assume that the consumer will be able to meet their essential living expenses and avoid any further arrears or debts building up.



2. The term 'creditor' includes banks, credit card providers, home credit providers, building societies, catalogue companies, local and national government agencies, utility firms, telecommunication companies, water and sewage firms, mortgage and secured loan providers, debt collectors, debt buyers, bailiffs, law firms and any other businesses involved in the provision of goods and services, the recovery of unpaid sums of money or collecting and enforcing debts on behalf of someone else.

3. Advisers and creditors should be aware of and adhere to all legislations and regulations that are relevant to their sector.

Part one: Preparation



Good practice starts at the beginning of the relationship by ensuring services are accessible, systems and processes identify financial difficulties early, respond appropriately and support those consumers who have long term needs. ↓

Different consumers have different needs and experience financial difficulties in different ways:

- Some experience short term problems from which they can recover quickly with just a little help.
- Some find it hard to interact with their creditors or access advice and need in-depth help over long periods.
- Others will have changeable needs that may improve or get worse from time to time.

Good practice meets the needs of all consumers by: →

Reducing the 'us and them' barrier

Creditors, advisers and consumers need to work together if they are going to be able to put things right.

However, consumers in financial difficulty often exhibit the same behaviours as those who wilfully refuse to pay – such as not making payments when they are due, ignoring calls and letters and making promises to pay that they don't keep to.

It may therefore be difficult for creditors to distinguish between those who wilfully refuse to pay and those in financial difficulty by just analysing their account history and their current behaviour.

Good practice aims to overcome this by acting as a natural filtering process – separating those that will engage from those who won't by:

Being open and approachable

There is some evidence to suggest that consumers respond more favourably and earlier in the process when creditors give due attention and sensitivity to the external-facing name of their departments (for example, 'financial guidance team').

As with the use of different trading styles commonly used later in the collections and recoveries process, it is important for creditors' staff and departments to be transparent and clear about who they are, who they work for, what their role is and the purpose of the contact.⁴ ↓

4. Office of Fair Trading debt collection guidance – draft 2011; and industry codes.

Preparation

Example: British Gas used to answer calls to its debt collections area “Hello you are through to British Gas debt collection”. But it found that customers perceived this negatively which affected agents’ ability to engage with the customer early on in the conversation. They now simply answer “you are through to British Gas Credit Solutions”. They only refer to collections and recoveries internally. They have found that consumers respond favourably to this new approach.

Example: HSBC found that re-naming internal teams within the collections and recoveries department, giving focus to words such as ‘financial guidance’ and ‘financial solutions’, promoted a more open, supportive and helpful feel for customers who can be put off and fearful of more formal sounding language. This improves engagement and contact from customers experiencing difficulty.

Example: Cabot adopted a flexible approach with regards to payment arrangements, altering its collections strategy to focus on customer engagement and communication. As a result collections have increased by 64 per cent over an 18 month period.

Advisers also need to be open, objective, approachable and accessible, and help reduce the ‘us and them’ barrier between creditors and consumers. They can do this by:

- ensuring they provide impartial, confidential and non-judgmental advice – even if consumers seek help at a late stage
- ensuring they respond to and work with creditors in an objective and transparent manner
- where appropriate, encouraging their clients to engage with and respond to creditors who may contact them before being aware that a third-party representative has been appointed
- ensuring that consumers can access services face-to-face, over the phone or on the internet. Face-to-face providers can ensure greater access if they hold advice sessions in places such as health centres, children centres, prisons or hospitals
- when appropriate, providing named contacts for consumers and creditors, and ensuring other members of staff can deal with enquiries when they are away.

Creditors and consumers need to work together in the first instance. However, some creditors have found that working with local and national advice providers helps them to help consumers who have needs they cannot meet, such as complex benefit or housing issues:

Example: Wealden District Council has a fast track referral process in place with local advice providers. This process allows its staff to refer consumers on for specialist help quickly and simply and has proved a great success.

Example: Sheffield Mental Health Unit CAB runs advice services in the Health and Well-Being In-Patients Units of hospitals in Sheffield. This ensures in-patients have access to the same advice and advocacy services as everyone else.

Example: Wessex Water has provided funding for debt advice agencies across its region since 2006. In 2011, 24 debt advice agencies across the region – including 14 Citizens Advice Bureaux – have benefitted as well as the Money Advice Trust for National Debtline. The amount of grant varies with some small grants for one-off expenditure up to £45,000 for the busiest bureau. The grants are used to fund specific debt adviser posts or debt advice training for existing staff. This partnership working has brought real benefits to customers, debt advice agencies and Wessex Water alike.

Example: South West Water funds two posts within Plymouth CAB which support Institute of Money Advisers (IMA) training across the region. A Water Debt Gateway has also been established with the bureau which allows all debt agencies across the region to quickly access the company's affordability schemes. The Gateway has been set up in such a way that Plymouth CAB staff can talk directly to the company and be provided with information on the customer's water debt. This is much quicker than the standard contact method to help put assistance measures in place.

Example: In Bristol, local advice agencies have worked with the council to develop a better way of working together. They now have a fast track telephone number for advisers to use, the local authority places a 30 day hold on council tax accounts and bailiff companies will now accept affordable repayment arrangements. Upon initial contact with the council, all consumers with council debts are now asked if they would like independent debt advice. Bristol Debt Advice Centre (BDAC) has also set up a specific council tax clinic and direct referral system for appointments to cover any council debts. Overall this means more people are offered affordable repayment arrangements and fewer accounts are passed to bailiffs.

Example: Since its launch in June 2011, a number of creditors and advice providers have made the Money Advice Service's online 'health check' accessible to consumers from their own websites.

The health check seeks to influence consumers' behaviour by asking straightforward questions and providing them with a personalised action plan which identifies the top three things they can do to make the most of their money right now, and to plan for future goals. Importantly, it quickly identifies if someone is in, or approaching financial difficulties, and links to the appropriate sources of advice to help them get started. ↓

Preparation

Responding appropriately to missed or late payments

A consumer's circumstances and thus ability to make payments can change over time. If someone misses a payment due under a debt repayment plan, it does not mean they will never pay again. Instead, good practice seeks to understand why the payment was missed and what can be done to put things right – such as reducing the repayment rate, helping the consumer make efficiency savings on their water, gas or electricity usage, changing the payment method or the payment due date.

Responding positively to late engagement

Not all consumers engage with their creditors or an adviser as soon as they fall behind or start to experience financial difficulty. Good practice recognises this, with advisers offering help, support and encouragement and creditors reconsidering the need for enforcement action, if appropriate, when a consumer does finally engage.

Objectively assessing how much a consumer can pay towards their non-priority debts

Good practice does not ask consumers to pay more than they can afford. Instead it uses an objective method of working out how much a consumer can pay. At present both the CFS and Consumer Credit Counselling Service (CCCS) budget methodologies provide advisers and creditors with suitably objective methods of assessing how much a consumer can pay towards their non-priority creditors.⁵

Communicating clearly and efficiently and making use of agreed methodologies where appropriate

Over the years a number of tools and approaches have been developed to help creditors and advisers that act on behalf of consumers interact as efficiently and effectively as possible. Advisers should always:

- develop a collaborative rather than combative approach to working with creditors
- establish the reasons for the consumer's debt problems, help them overcome these problems and respond objectively and appropriately when interacting with creditors
- only request the information they need – for example, just asking for basic account information if the debt is not disputed and an offer is going to be made
- provide supporting evidence that is relevant, supports the request being made and demonstrates how the person's circumstances affect their ability to pay
- if appropriate, use the Money Advice Liaison Group (MALG) debt and mental health evidence form⁶
- use the CFS (or equivalent) and CASHflow methodologies⁷
- explain any expenditure items that exceed agreed guidelines
- not submit financial statements showing a negative balance unless they are demonstrating the client's inability to pay in the short term.

5. For more details of the CFS see www.cfs.moneyadvicetrust.org or www.cccs.co.uk

6. For details of the MALG debt and mental health guidelines and evidence form see www.malg.org.uk

7. For more details of the CFS and CASHflow see www.cashflow.net.uk and www.cfs.moneyadvicetrust.org respectively

Identifying and responding to consumer vulnerability⁸

Good practice promotes inclusive services, reduces the potential for consumer detriment and responds positively to the needs of consumers, by:

Providing information and communications in a format, and by a means, that meets the consumer's needs

In order to get this right, creditors and advisers need to capture and record details of consumers' needs at the earliest opportunity. They should explain how this information will be used to help them and record on all systems their informed consent to hold any sensitive data in accordance with the Data Protection Act (DPA).

Consumers with mental health problems can experience specific difficulties in communicating with creditors. For example, they may need more time to explain their situation or be overwhelmed by fears and anxieties. Creditors can address these difficulties in simple ways, such as setting up specialist teams, encouraging staff to take longer on calls where appropriate, and offering to deal with relatives or money advice agencies acting on the consumer's behalf, when consent is given.⁹

Some consumers may change their preferred method of contact from time to time – such as having all communications sent by post. Good practice establishes systems and processes that capture such requests and respond appropriately.

Example: The Government's Office for Disability Issues states that the need to produce communications in alternative formats can be reduced if the communication itself is kept concise and written in legible, clear English. For more details see odi.dwp.gov.uk

British Sign Language (BSL): Creditors and advisers should understand that BSL uses different grammar and sentence construction and is therefore not the same as English. Consequently communications to BSL users will need to be reworded to ensure recipients can understand them.

Example: Advisers working with consumers with learning difficulties report that Capital One's simple, clear and concise communications are particularly helpful. These communications are always sent promptly and always clearly explain why the consumer has been contacted, what they need to do and how they can get in touch if they need help. They are also written in a polite and friendly tone that promotes engagement. ↓

8. The Equality Act 2010 is relevant to this section as licensed credit businesses are included amongst suppliers of goods and services. For more details see: www.homeoffice.gov.uk/publications/equalities/equality-act-publications/equality-act-guidance/business-quickstart?view=Binary. Please note the example on page 15 of this home office guidance involves a bank.

9. A lot of work has already been undertaken in this area by creditors. For more details, refer to the MALG's mental health guidelines (www.malg.org.uk) and *Debt collection and mental health: Ten steps to improve recovery* Royal College of Psychiatrists' report (2010).

Preparation

Using risk factors and triggers to identify and respond to consumer vulnerability

Consumers won't always be able to make informed choices, manage money, choose financial products and services, exercise their rights or protect their own best interests. When this happens the consumer is at greater risk of being disadvantaged or suffering detriment, and is often said to be a vulnerable consumer.

Developing systems that only help 'vulnerable consumers' suggests that being vulnerable is a static state that always affects consumers with certain characteristics. This excludes everyone else, regardless of how their circumstances affect their ability to interact with their creditors.

AFD members believe good practice addresses 'consumer vulnerability', which is a dynamic state that can affect anyone at any time for any reason, be that medical, social or environmental.

Consumer vulnerability is identified and responded to using:

- risk factors
- behavioural triggers
- appropriate solutions.

A set of risk factors is not the same as a list of vulnerable consumers. Instead risk factors should be seen as characteristics that *may* make someone susceptible to disadvantage or detriment.

If all consumer-facing staff can identify characteristics or behavioural triggers, which might indicate a consumer will find it hard to interact with them or repay what they owe, they will be better placed to find them the right solution. Tools to help creditors do this have been developed by the Royal College of Psychiatrists and the Money Advice Trust.¹⁰

As many consumers may not want to mention that they have a problem, it is vital for creditors and advisers to develop systems and processes that do not rely on such information being disclosed. Using experience gained from helping other consumers and input from experienced staff, creditors and advisers will be able to formulate strategies that allow them to define the sort of behavioural triggers they need to look out for.

Example: These mechanisms have been shown to address consumer vulnerability:

Some creditors use plain English and a communication strategy that always tells the consumer why they are being contacted, what they need to do in response and who to contact if they need further help, so problems don't arise in the first place.

Collectors at Allied International Credit are given words and phrases to listen for when trying to identify customers with mental health problems. If a consumer uses one of these words or phrases – or something similar – their case is passed to a specialist team that offers extra help. Such words and phrases include, but are not limited to: depression, bi-polar, dementia, and stress.

Some regional creditors found that setting up panels consisting of their staff, local advisers and health care professionals to whom they could refer consumers thought to be vulnerable has helped get the right help to the right consumers at the right time.

¹⁰ Debt and mental health: 10 steps to improve recovery, Royal College of Psychiatrists 2010; and www.moneyadvicetrust.org

If a consumer is flagged up by an adviser or identified by a member of staff as being potentially vulnerable, staff can find out what help they need by asking:

- Does this affect your financial situation?
- Does this affect your ability to deal or communicate with us as a creditor?
- Does anyone help you manage your finances such as a family member or an advice provider?

Depending on the consumer's response, creditors could consider either dealing with the matter there and then, referring the case on to the person or team who specifically deals with vulnerable customers or contacting the consumer's appointed representative.

Example: Capital One found that providing staff with access to written policies and processes, and 'help files' developed from their colleagues' experience helped them be more confident when dealing with vulnerable customers and sensitive situations.

Any cases referred internally for extra help need to be followed up appropriately.

For example, if a consumer mentions they have a diagnosed mental illness, the call centre operative should refer them for further assistance. If the person tasked with providing the additional help can't help until the consumer produces medical evidence, this could prevent that consumer from getting the help they need.

Instead, the person tasked with providing that additional help should start by asking the questions noted above (or something similar). This way the consumer can explain what help they need and access it straight way.

Similarly advisers should ensure they are equipped to meet consumers' needs. If necessary they should establish signposting and/or referral arrangements with specialist service providers or organisations. For example, the Financial Inclusion Fund disability project established a partnership between Citizens Advice, RNIB, Action on Hearing Loss, Contact a Family and Mencap to give free holistic debt advice to blind and visually impaired people, people who

are deaf or hard of hearing, parents of disabled children and people with learning difficulties.

Local authorities, housing associations, government departments and regional creditors – like water and sewerage companies – may seek to work more closely with community based face-to-face advice providers, who will be able to help with the assessment and resolution of consumer vulnerability.

Example: South West Water, Wessex Water and Wealden District Council have all developed close working relationships with local advice providers to ensure consumers access the help they need when they need it.

A note about the Equality Act 2010

The Equality Act 2010 provides a useful framework for responding to the specific needs of disabled customers. Service providers have a duty to make reasonable adjustments to services to enable disabled people to access them. There are legal consequences where the duty is not met and a disabled person suffers a detriment as a result. It is an 'anticipatory' duty in that action should be taken to address the most common kinds of access requirements, for example, relating to people with learning difficulties and to people who are blind or deaf.

Disabled people are not necessarily 'vulnerable', but looking at ways of making services accessible to people facing specific barriers can benefit other customers.¹¹

¹¹ Further details on the obligations of services providers can be found in the *Equality and Human Rights Commission Code of Practice*, chapter 7 pp 90-112.
www.equalityhumanrights.com/uploaded_files/EqualityAct/servicescode.pdf

Preparation

Continually evaluate, develop and improve what you do

Problems will arise with any process. Good practice accepts this and uses information from a range of sources to evaluate, develop and improve.

Using complaints data is essential to this process. However, many problems do not become complaints – especially if the consumer does not know their rights have been infringed or they lack the confidence, mental capacity or resources (such as time, paper, IT) to express their dissatisfaction.

Instead of relying solely on complaints data, good practice uses a wide range of data sources to learn what is going wrong, what is going well, what is being missed and what can be done to put things right or build on what is going well.

Examples of some sources of data might include:

- Details of disputes and expressions of dissatisfaction that are resolved before they become formal complaints.
- Customer satisfaction surveys that involve consumers at all stages of the debt repayment/advice process.
- Feedback from the advice/creditor sector via discussion forums, satisfaction surveys and regular on-going one-to-one engagement.
- Regulators' commentaries on good practice.
- Adjudications made by relevant alternative dispute resolution (ADR) bodies.
- Management information from the debt repayment process – for example, data on the 'stickability' of repayment arrangements.
- Specific teams within creditor organisations that examine process, policies and practices from the customer's perspective and report directly to senior management.
- Information exchanges with other creditors through trade associations and good practice forums.

- Advice sector input, such as working with money advice groups, surveys completed by money advisers, joining the MALG or through direct regular liaison with local and national advice providers.
- Creditors can influence good practice in debt advice by working with liaison officers, taking part in discussion forums and providing detailed feedback and practical examples that can be used in adviser training exercises.
- Continuing engagement with the AFD.

This list is not exhaustive. The overall objective is to include senior management in a continuous process of evaluation and development.

Example: By examining why people need advice and assistance AdviceUK has been able to develop a new approach to the design and commissioning of advice services. This new systems-thinking approach, which utilises the Vanguard Method, uses failure demand to understand what's going wrong and how it can be fixed. AdviceUK's BOLD project found that 58 per cent of advice demand in Nottingham was 'value work' but that 42 per cent was preventable 'failure demand'. (www.adviceuk.org.uk/projects-and-resources/projects/bold/nottingham-systems-thinking). Its Nottingham benefits pilot brought community-based advice providers and the local authority together with the aim of helping citizens to pay their rent and council tax by making decisions and paying benefit quickly. A 25-step process was reduced to 17 steps, and the time taken to make decisions reduced from 98 days to six days.

Example: Barclaycard found that a lot of complaints about Interactive Voice Messages (IVMs) came from people over 70. To overcome this it now automatically excludes customers over 70 from IVM systems in the first instance. At the same time it also found younger people responded better to text messages and emails. As a result younger customers are now contacted by these channels first.

Example: Wessex Water does not use automated phone systems so it can ensure that each customer call is answered by a person. Customer feedback shows that warm voice answering is a key driver of customer satisfaction and engagement.

Promoting and maintaining good practice

The actions of collections staff and those working on behalf of creditors – such as debt collectors, private bailiffs and debt buyers – are key to the success of any strategy. Reviewing the performance of staff based on both collections activity and their adherence to good practice might improve processes and promote good outcomes:

Example: British Gas found that by more closely linking quarterly appraisals for its collections staff to customer satisfaction and the effectiveness of resolutions drove better outcomes for both the customer and their business.

Example: Shop Direct has embedded Treating Customers Fairly within the company culture by moving from a purely collections-based metric for evaluating collections staff to a measure that includes collections, compliance and behaviours. This means that collections staff are actively monitored in the way they treat customers. Failure to meet the required compliance and behaviours will adversely affect the individual collectors' remuneration.

Example: Provident Personal Credit use CK Edrupt to administer repayment arrangements on its behalf. This arrangement has long been praised by advisers whose experience is that accounts are transferred efficiently, avoiding disruption to existing arrangements. As a result of this efficient transfer, the number of letters and calls advisers have to make is reduced and sustainable repayment arrangements for clients can be achieved more quickly.

Example: Allied International Credit (AIC) has a dedicated team that deals with the money advice sector. It trains frontline collectors to listen for signs of customers who require further help in dealing with their finances. Once identified they are provided with contact information for the free advice sector and passed to a dedicated team of collectors to ensure they are receiving the assistance

and forbearance they require. This team also deals with enquiries sent in by advisers. AIC has found that working closely with the advice sector helps it deal quickly and efficiently with complex cases and ultimately leads to more sustainable repayment arrangements being made.

Example: Marston Group – a firm of enforcement officers and bailiffs – worked with a local authority, the local advice agencies and a national telephone advice provider to develop a referral mechanism for consumers found to be in financial difficulty. Marston then provided free training for CAB, local authority and police staff to ensure clarity and to dispel myths. Local advice agencies shadowed enforcement staff in an attempt to understand the job of recovering debts from both sides. The enforcement agents would refer those in financial difficulty directly to the local debt advice team and would hand out their debt management advice packs including a copy of the CFS budget pack, for them to complete before attending a meeting with a debt counsellor. This reduced the time it took for a consumer to get specialist help. On some occasions enforcement action was placed on hold pending a thorough review of their actual circumstances. In doing so, those cases that may possibly have been returned as uncollectable received the help and guidance required. Once the review was complete (usually the same week) the enforcement agent would discuss the case with the local authority (but now with much more evidence) and agree the proposed arrangement. The case would still remain with the enforcement agent until the debt is fully paid. The enforcement agent would also carry a selection of leaflets for other organisations in the community available to assist in other areas, for example AgeUK or the local credit union.

This initiative created a level of trust and partnership never before seen in local authority recovery work, increasing repayment rates and providing consumers with better outcomes. It even won the firm an industry award. ●

Part two: Identification



Consumers don't always ask for help or act rationally when they are struggling to make ends meet. ↓

Consumer education measures, such as leaflets, and awareness-raising alone will not reach everyone, nor overcome the stigma of personal debt nor address poor creditor practice. Instead good practice sees advisers promoting consistent messages and providing quality information.¹² It sees creditors taking steps to understand their customers' financial position and what, if any, help they need by: →

Identifying consumers' requests for help

Providing the right help to those who ask for it is a key good practice point. Otherwise consumers become reluctant to ask for help again, or engage with their creditors later on.

However, not all consumers will ask for help in the same way or via the same channels. So creditors need to put processes in place to identify and respond appropriately to a range of different consumer behaviours.

Being flexible and taking the wider view on how these behaviours are manifested is key. For example, consumers should not have to say "I am in financial difficulty" in order to get the help they need. Instead triggers or indicators can be used to identify when consumers are at risk of falling into financial difficulty and offer them appropriate support.

Example: Some triggers that have been shown to indicate a consumer may be facing financial difficulties include requests to:

- cancel direct debits or standing orders
- increase credit limits
- decrease credit limits
- change the payment date
- take payment holidays
- take out consolidation loans
- accept offers of reduced repayment either direct from the consumer or via an advice agency

or a combination of these. ↓

¹² Such as the Money Advice Trust's *Dealing with your debts* pack that is funded by RBS.

Identification

Good practice encourages frontline staff to identify these indicators and respond appropriately.

Example: LloydsTSB has grown its capability in providing support not just for customers in arrears, but also those newly facing financial difficulty. Whether initial contact is made at a branch or through a call operation, Helping Hand support will put customers in touch with a dedicated team of specialists, who will run through their finances and help with budgeting and managing their debt. Through careful assessment of a customer's finances, the bank is able to determine exactly the level of difficulty and provide a solution that is most appropriate for their situation. The solutions available under the Helping Hand initiative ensure that help is available to meet almost all circumstances, whether it be a temporary financial difficulty or something more permanent.

LloydsTSB encourages its customers to make early contact as soon as they are aware that they may be facing financial difficulty and take advantage of this support.

Identifying consumers before they ask for help

Different creditors will have access to different amounts and types of information without recourse to data held by credit reference agencies: Banks can see what goes in and comes out of a consumer's current account, but water companies can only see if payments are up to date or in arrears.

Good practice uses all available data to identify those who need help.

For creditors with limited access to financial data – such as local authorities, water companies and utility providers – missed or part payments should be seen as a sign of financial difficulty and trigger the offer of help. The number and extent of missed or part payments should be derived from the historical account data of those already in the debt repayment process.

If it is available, non-financial organisations may also find credit reference data, such as over-indebtedness indices, helpful.

No one data set will definitively predict that someone is facing financial difficulties. Instead the best pre-emptive systems use a combination of different indicators to estimate the likelihood that an individual will fall behind. Creditors should try a variety of different models to find which works best for their customer base.

A note about data

Using data to model consumer behaviour is complex, but the policy point here is simple: use whatever information you have, and act on it.

Responding to consumers before they fall behind

At this stage of the process, the wrong response could drive disengagement and exacerbate a consumer's financial difficulties. It is therefore essential that creditors continue to take a consumer-focused approach. This involves understanding the customer's situation. This will take time and trust.

Having dedicated staff to contact the customer at a time that suits them may allow creditors to spend time gathering information, discussing and implementing solutions with the consumer. This might be more appropriate than expecting frontline staff to do this alongside their other duties.

As with work to address consumer vulnerability, this sounds complex and resource intensive, but it need not be. Large creditors may want or need specific teams, but smaller creditors could use individual members of staff or incorporate this function into their normal customer services.

Example: Solutions currently in use that have proven successful at preventing financial difficulties develop include:

- Switching the consumer to a more appropriate water, gas or electricity tariff.
- Helping consumers make efficiency savings with their fuel and water usage, for example, by providing water saving devices like reduced flow shower heads or water meters or providing energy efficiency advice and insulation.

- Ensuring that appropriate council tax discounts are applied to the consumer's account.
- Helping with housing and council tax benefit claims.
- Help customers to access advice on benefits and tax credits.
- Suspending collections activity and not expecting payment for an agreed period of time.
- Switching to an interest-only product for a short period while the consumer's situation improves.
- Applying any payment holidays that might be available.
- Refunding fees and late payment charges.
- Changing payment dates.
- Cancelling non-essential direct debit and standing orders.
- Downgrading the consumer's current account to a non-fee charging one.
- Accepting reduced repayments while short term income fluctuations are addressed.
- Helping consumers apply to the creditor's charitable trust, if they have one.
- Signposting and referring consumers to free, independent advice providers.

or a combination of these.

Some solutions – such as claiming benefits or dealing with other creditors – will require specialist help that creditors may not be able to provide. Ensuring staff know when and how to hand over cases is essential.

Similarly, knowing what advice services are offered by different advice providers is key to ensuring consumers access the help they need and are not wrongly advised or sent to an agency that can't help – as this could frustrate the customer and put them off contacting anyone again.

Example: Wealden District council has an online benefit calculator that its staff and members of the public can access from the website.¹³ This will calculate any entitlement to council tax benefit or housing benefit and state whether income support or tax credits should be claimed.

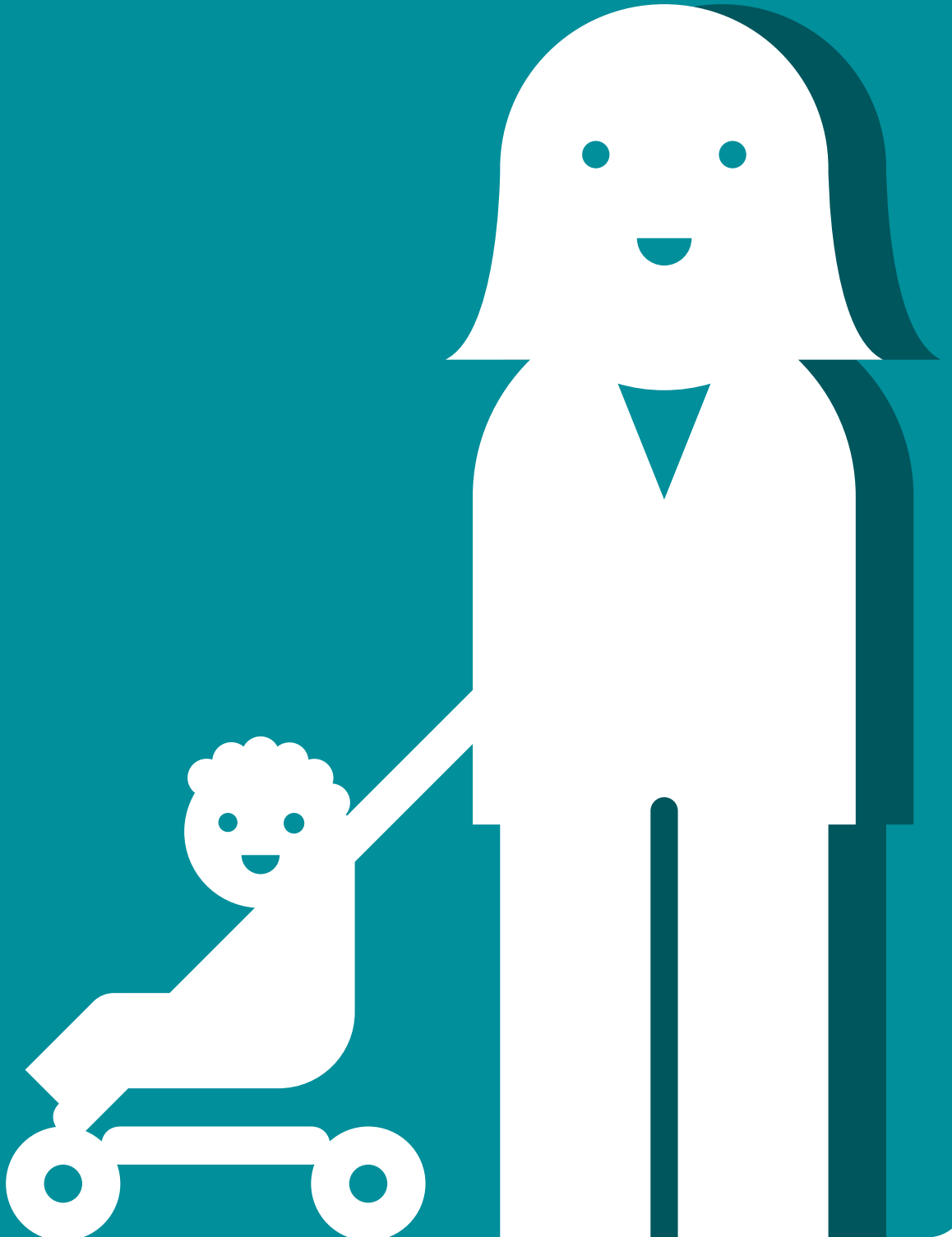
Example: HSBC has worked with the advice sector to understand the services offered by different providers. This information is now on its intranet so staff can ensure those who need help are signposted to an organisation that can help – if they need face-to-face advice and advocacy and have no income, they are not sent to a telephone advice provider, if that provider that can only advocate on behalf of consumers who are able to pay above a certain amount each month.

Example: In 2007, South West Water introduced its own funded Watercare scheme. The scheme includes giving free meter advice, benefit entitlement checks, water audits and fitting devices to help customers reduce their usage. Since its launch it has helped over 8,000 customers, the water audits and devices have proved popular with consumers but the best gains for customers have come from identifying unclaimed benefits – an average of £47 per week each. The Walker review of water charging praised the scheme as a potential model for the industry to follow.

Advisers should also be willing and able to help consumers before they fall into arrears. If, following such advice, the consumer and/or their adviser submits an offer of repayment, creditors should treat it in the same way as any other offer of repayment, that is, not refuse to deal with it because the consumer is not yet in arrears. ●

¹³ www.wealden.gov.uk/Wealden/Online_Task_Directory/Online_Task11817/ViewtheBenefitsYoureEntitledtowithourBenefitsCalculator.aspx.

Part three: Encouragement



Creditors, advisers and consumers have to work together. In order to do this they must be engaged with one another. ↓

However, some consumers report that their creditors' 'demands' put them off talking to them, or lead them to pay whichever creditor contacted them first or seems to sound the most 'threatening'.¹⁴ This suggests that some standard communications sent by creditors and some statutory notices are driving disengagement, making it harder for consumers to address their financial difficulties.

Good practices promote engagement between consumers and creditors by taking a new approach to contacts that: →

Uses clear and concise communications

Transparent communications that set out everything that might happen if non-payment continues can be stressful and confusing for consumers, as they might feel intimidated by legal processes they do not understand. This might lead them to ignore advice and repay one debt at the expense of more pressing debts or essential expenses.

Unfortunately existing legislation requires some creditors to send such communications to consumers when their accounts fall into arrears or their agreements are defaulted.

Good practice addresses these issues by using clear and concise communications that allow the consumer to understand:

- what the prescribed communications mean in real terms
- why they are being contacted
- what they are being asked to do
- how they can ask a question or put something right
- access free-to-client, impartial and independent advice.

To do this, all communications must be in plain language. The reason for the contact and any call to action should be prominently set out in the first few lines of text – otherwise consumers just won't read it. ↓

¹⁴ *The long-term impact of debt advice on low income households: the year 3 report*, Michael Orton, Warwick Institute of Employment Research, July 2010; and *With a little help from my friends*, Citizens Advice, 2008.

Encouragement

Example: Advisers working with disabled clients and people with learning difficulties told us that Capital One's communications are very helpful and easy for their clients to understand. This reduces the amount of time they spend dealing with cases and explaining matters to clients.

Capital One told us that they do this because: "For us, it is all about providing an excellent service to our customers for the entire life of the relationship. All our communications have to meet our brand standards. They are always in plain English and clearly set out why we are writing, what we expect the customer to do in response and how the customer can pay." Since then Capital One's communications have been noted for their quality in two other pieces of work – most notably by a debt adviser working with disabled people who said the clarity helped her and her client a great deal.

Focuses on the positive

Consumers may well be receiving numerous calls and letters pointing out that they are in debt – especially if they have numerous creditors. Such contacts can make matters seem insurmountable. If the consumer cannot see any point in contacting their creditors, they will simply not bother trying.

Some consumers with many creditors feel as if they are being repeatedly told that they are £XX.XX in debt and they must make payment or face 'further action'. Good practice uses a positive tone that offers support and help in the first instance. This way consumers will see that there is a benefit to engagement and will be more likely to follow any call to action.

A note about requesting payment in full

Some consumers will be able to make up missed payments. As this is in their best interests, they should be allowed to do so. However, as noted above, some consumers in financial difficulty appear to focus too heavily on requests for payment in full and either ignore or over look subsequent offers of help and forbearance.

Good practice seeks to overcome this by explaining statutory notices in clear, concise plain English and dealing with payment in full only once it has been established that this is an appropriate option for that consumer, unless required under the law.

Keeps offering help

Collections contacts will have to become more proactive as non-payment continues. Such contacts will have to mention the implications of continued non-payment, and these may well be serious.

It is understandable that consumers may well be fearful when this happens. It is therefore essential that help continues to be offered in all subsequent contacts. Such offers of help should be prominent and easy to identify, and should reiterate that it is never too late to talk.

A note about different trading styles

Many creditors use different trading styles at different points in the collections cycle, such as when an account is charged off and passed to another in-house collections team. The Office of Fair Trading (OFT) and the Lending Standards Board (LSB) have strengthened their guidance to ensure creditors who use different trading styles are transparent and clear about who they are, who they work for, what their role and what the purpose of the contact is.

As with the names discussed in part one that promote an open and approachable organisational culture, good practice ensures that creditors accurately and truthfully represent their authority, status and correct legal position when using different trading styles later on in the collections cycle. Use of a different trading style therefore, must still reflect the true nature and purpose of the department/organisation initiating contact with the consumer.

Example: Lowell Financial (a debt purchase company) found that putting a frequently asked questions section on the back of all their letters helped consumers understand why they were being contacted by a seemingly different organisation. This cut down on unnecessary contacts, promoting engagement and the sustainability of repayment plans.

Responds positively to any offer of repayment

Many creditors respond to small offers of payment in an off-putting way, especially if a consumer is unable to meet the level of repayment they would like. For example, if the consumer is unable to repay their arrears within a billing cycle or a tax year, or their offer is so low it will not prevent an account being charged off and a default notice being issued, creditors may say offers of this size are “not acceptable”. This response understandably puts consumers off engaging any further.

To overcome this, advisers and creditors should follow the CFS best practice checklists when submitting and responding to offers of repayment. Details of these checklists can be found on the CFS website. The AFD recommends them for all creditors and advisers who submit offers on behalf of consumers.¹⁵

These checklists have been in use for some time and a number of major creditors have used them as the basis for redrafting the letters they send in response to offers of payment. The improvements these changes have made are regularly reported to Citizens Advice by advisers working in the free debt advice sector. For example, one CAB adviser recently wrote to say: “In the past, our clients had problems getting one major creditor to accept their offers. But since they starting using the checklists, we’ve noticed a real difference. Our clients’ offers are accepted, our advisers’ lives are made easier and a huge amount of stress removed from our clients”. In this case the creditor involved had not changed its debt collection policy, just the way it words its letters.

If, after paying for everyday essentials, on-going consumption of water, gas, electricity and other services such as telecommunications, the consumer has no money with which to repay their debts or arrears it would be good practice to provide them with a payment moratorium, subject to regular reviews.

Example: HSBC is willing to accept nil offers if the consumers can demonstrate they have no available income. Moreover it does not chase missed payments of less than £10 per month as it found it was simply not cost effective

¹⁵ See www.cfs.moneyadvicetrust.org for more details of the good practice checklists

Encouragement

Recognises and responds to late engagement

As noted earlier, good practice accepts that some consumers won't engage straight away, and recognises late engagement by responding positively.

By this stage, debt collectors, debt purchase companies, solicitors, bailiffs or sheriff officers may be involved. Contractual arrangements between creditors and third parties acting on their behalf or purchasing their debts can promote good practice. To do this, third parties must be able to accept affordable, sustainable repayments or return accounts or warrants to the original creditors if they become aware the person is vulnerable.

If a debt collection agency makes contact with a consumer and sets up a repayment plan – even if that plan is to accept no payments for the time being – and the original creditor then wants to sell or recall the debt, it should do so in a clear and transparent way. The consumer and their adviser should be kept informed of what is happening and what they need to do in the meantime.

Otherwise the process can become time-consuming and costly for advisers who have to reiterate offers of payment, and consumers will face further collections action even though they are doing the right thing – something that can be off-putting and undermine good practice.

The positive aspects of engagement can be further embedded if recovery action and all the costs associated with being in arrears – such as late payment fees – and interest (if applicable) are suspended.

Provides incentives to engagement

Schemes that reward engagement by matching arrears payments and writing off outstanding balances are particularly effective at promoting and maintaining engagement.

Example: Wessex Water has over 8,000 customers on its various assistance schemes. These schemes, although reducing the amount charged, have resulted in increased collections. Customers also report a 'self esteem' benefit to being out of debt and receiving a bill they can afford.

Assist is Wessex Water's low tariff based on ability to pay. The average annual bill reduction for a water and sewerage customer is around £200, but at the same time average payments from these customers have gone up by over 40 per cent.

Example: South West Water's Restart scheme matches arrears payments. The amount of debt write off depends on how much the customer pays and increases if the customer continues to pay. Despite writing off debt, South West Water has found that customers who go on to Restart pay on average 60 per cent more than they were before going on to the scheme.

Example: Under the NPower Energy fund, the electricity or gas debts of eligible customers will be written off once they have demonstrated an ongoing commitment to pay for their supply. Additional support will be provided including: payment method and tariff advice; energy efficiency advice and measures, and money management advice and benefits advice. All this will allow customers to 'get back on their feet' while giving them some control over their financial situation. ●



Part four: Cooperation



Consumers have many financial relationships. To sustain them and avoid, manage or overcome periods of financial difficulty, advisers, creditors and consumers must cooperate. ↓

However, as we have already explained, consumers do not always act rationally or make decisions that are in their own best interests. This type of behaviour can be more prevalent if the individual has multiple creditors or complex financial problems that have legal implications, as they tend to pay the creditor who 'shouts the loudest', not the one with the most serious legal sanctions.¹⁶

Good practice overcomes this problem by coordinating repayments so that consumers can meet their ongoing living expenses, avoid falling further into arrears and repay what they owe at an affordable rate: →

Priority debts and essential expenses

As a general principle, a debt is a priority debt if non-payment leads to the loss of the consumer's home, liberty or essential goods and services.¹⁷ If the consumer is not in arrears, these items are essential expenses and should be paid over and above any other types of debt.

A note about water: It is established money advice practice to prioritise debts depending on the ultimate sanction for non-payment. Following these accepted principles, water and sewerage debts are treated as non-priority debts because consumers cannot be disconnected for non-payment.

In turn, this means that the basis for negotiating the repayment of water and sewerage arrears is: pro-rata along with other debts, or the consumer makes a nil, token or nominal offer until their situation improves.

However, on-going usage and subsequent bills are essential expenses and must be treated as such. Advisers should emphasise this to consumers and consider withdrawing or restricting services to those who are unwilling to pay their ongoing water and sewerage charges.

If a consumer needs to prioritise payment of any other debt or expense, they and/or their adviser should give a full explanation. ↓

¹⁶ *The long-term impact of debt advice on low income households: the year 3 report*, Michael Orton, Warwick Institute of Employment Research, July 2010; and *With a little help from my friends*, Citizens Advice, 2008.

¹⁷ A non exhaustive list of priority debts can be found online at: www.direct.gov.uk/en/MoneyTaxAndBenefits/ManagingDebt/PlanYourWayOutOfDebt/DG_10013291

Cooperation

Prioritising priority debts

Consumers may need to consider the order in which they repay their priority debts, if they have more than one.

This will depend on the stage recovery proceedings have reached and the consumer's circumstances – for example, they may choose to repay their fuel arrears first to avoid having a pre-payment meter fitted.

This approach will mean other priority creditors are paid less despite having similar sanctions at their disposal.

In such circumstances, consumers and advisers should be willing and able to demonstrate when the other debt will be repaid, and when they will be able to start paying their full contractual payments and/or something towards any other priority debts.

Dealing with priority debts and ongoing consumption

Where possible, consumers should repay their priority debts alongside their ongoing consumption, regular bills and contractual payments. To help them do this, priority creditors could consider accepting reasonable offers toward arrears, when the consumer can demonstrate that they can also afford their ongoing bills or contractual payments.

Example: British Gas recently allowed specialist agents to help people set up repayment plans that cover ongoing usage but also allows them to repay their arrears at an affordable amount over a longer period. This approach has had two benefits: specialist agents are having more appropriate conversations around setting affordable repayment rates based on the information consumers provide. This means that consumers are maintaining their repayment plans and paying for their ongoing usage and specialist agents reported feeling happier, and more comfortable in their roles.

Dealing with consumers who cannot afford the required payment

If a consumer cannot afford to pay for their ongoing consumption or meet their regular bills and contractual payments, their creditors should consider a range of options.

All of the following have been used and proven to work by AFD members:

- Changing the rate of interest or term of a mortgage or secured loan to bring the payment due down.
- In certain circumstances, allowing the consumer to pay only the interest due on the mortgage or secured loan while they take steps to improve this situation.
- Allowing the client to pay whatever they can afford toward the mortgage or secured loan while they improve their situation.
- Spreading council tax payments over 12 months instead of 10.
- Reducing the consumer's gas, electricity or water bill so that it is affordable.
- Switching them to a cheaper water, fuel or phone tariff.
- Helping them with efficiency measures, such as a water meter, insulation or energy efficiency so they use less going forward.
- Helping them access safety nets such as Water Sure.
- Helping them seek independent advice on benefits.

Creditors' prudential requirements will have to be balanced with their customers' need for forbearance.

If consumers only have multiple non-priority debts

If a consumer has multiple non-priority creditors, no one creditor should seek to advise them in regard to another creditor's debt.

Instead, each creditor should work through the same objective income and expenditure assessment and only accept their equitable share of the consumer's disposable income, based on how much they are owed.

The creditor should then advise the consumer to seek free, independent debt advice or speak directly to their other creditors.

Example: HSBC already does this in its collection centre. It has incorporated the CFS into its internal systems and staff have the time to work through a consumer's budget – at a time that is convenient to the consumer. This combination of the right amount of time and the right tools for the job makes HSBC staff ideally placed to set up affordable and sustainable repayments.

Coordinating a consumer's financial affairs

Once the full extent of a consumer's income, expenditure and liabilities are known, established advice practice suggest the following payment hierarchy:

- essential living expenses first
- priority debts repaid second
- pro-rata non-priority debt repayments last.

This hierarchy does not mean that consumers must use all their disposable income to repay priority debts first. Instead, it should be used as the basis of a sustainable arrangement within which the consumer can meet their on-going living expenses (including any long term saving strategies) and repay each creditor at a fair and acceptable rate.

If a consumer has assets, advisers should discuss the advantages and disadvantages of realising these assets to repay debts. Advisers should not restrict or withdraw services from those consumers who will not realise assets to repay debt.

Insolvent consumers

If a consumer does not have sufficient money with which to meet any of the expenses noted above or to repay their debts as and when they fall due, it may be in their best interests to enter formal insolvency remedies, such as bankruptcy, a debt relief order, an individual voluntary arrangement, an administration order or a trust deed. In such cases consumers should be referred or signposted for advice as soon as possible.

When relevant, advisers should ensure that these options, and their implications, are fully explained to consumers. Consumers should then be able to make an informed choice about whether or not they enter one of these remedies.

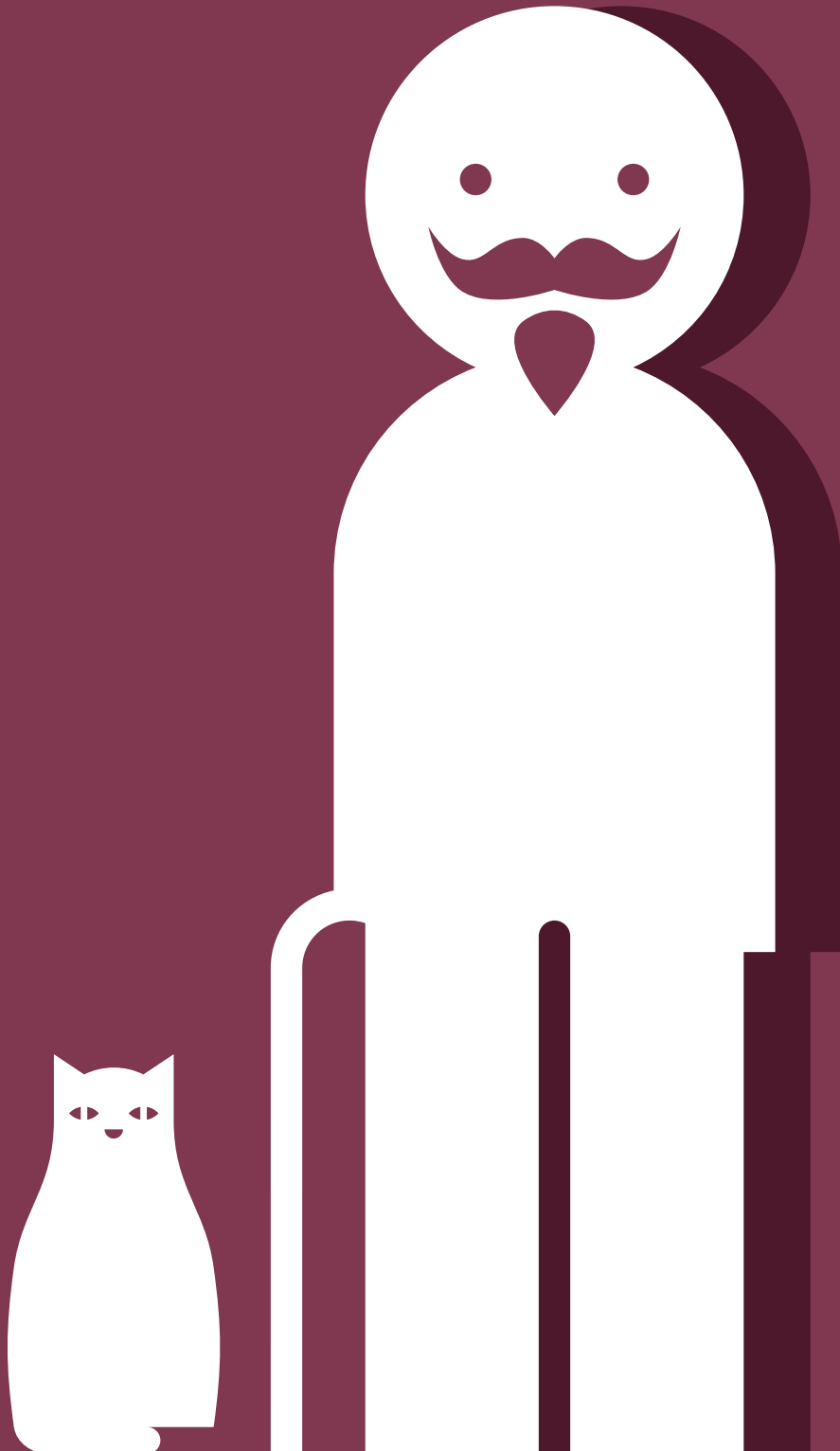
If consumers are insolvent but do not want to access formal insolvency they should still be offered help and support – such as nominal offers or moratoria. Otherwise the risk of disengagement still exists as clients who don't want to access insolvency will be left feeling rejected.

Income maximisation

All advice providers must provide income maximisation advice as part of a holistic debt advice process. This must include the consideration of charities to which the consumer might apply for financial assistance.

Example: South West Water's close working relationship with Plymouth CAB and the Water Debt Gateway lets customers go to a third party for help. The company set up their Freshstart Fund in 2010 which is administered by Plymouth CAB. It allows customers to be given direct financial help with their water debt from the CAB. Customers are referred through to the Gateway and are assessed to ensure they meet the criteria for the fund, if they are successful CAB staff will award a financial sum depending on their circumstances. Approximately 700 customers applied to the Freshstart Fund for assistance in the first 10 months. ●

Part five: Engagement



Managing on a restricted budget while repaying debts over long periods can seem like an endless task. ↓

If consumers cannot see the 'light at the end of the tunnel' or feel they will lose everything anyway, they may well disengage or take drastic action, such as handing back the keys to their home or petitioning for bankruptcy. When this happens creditors either recover less money or spend more trying to re-establish contact with their customers.

Good practice keeps consumers engaged in the debt repayment process by: →

Providing all consumers with 'breathing space'

The concept of breathing space originated in the consumer credit sector. The basic principle is that consumers are given 30 days free from collections activities – such as calls and letters – to develop an offer of repayment, either on their own or with an adviser.

If the consumer is still working on their offer after 30 days, the breathing space commitment in the BBA and FLA Lending Codes, which subscribers have to follow, allows the consumer up to a further 30 days breathing space if they can show they are taking steps to prepare their offer or gather evidence to support their request – such as to progress a benefit claim or gather medical evidence.

Energy providers are committed to provide consumers with 30 days notice before disconnecting their supply. And members of the Credit Services Association (CSA) are required to give consumers 30 days' grace, only if they are working with a debt adviser.

These subtle but significantly different 'breathing space' commitments can be confusing for consumers and place some creditors at a disadvantage to others. AFD members believe the BBA and FLA Lending Codes' definitions of 'breathing space' are good practice and would recommend they are adopted across all sectors.¹⁸

After the 60th day consumers or their advisers should be able to provide an overview of the current financial situation and what action they intend to take going forward. If they do not have a good reason for being unwilling to do this, creditors can resume collections activities. ↓

¹⁸ Please note at present these code commitments do not apply to secured lenders.

Engagement

Example: When financial difficulties are identified, Barclaycard gives consumers 30 days 'breathing space' so they can address any issues and work out an affordable offer of repayment. During this time interest, charges and collections activities are suspended.

Historically, Barclaycard took a rather passive approach to breathing space – waiting to hear from the consumer and resuming normal collections activity if no contact was made. Unfortunately some consumers found the subsequent collections calls and letters off-putting.

To overcome this Barclaycard set up a new proactive customer service team to contact consumers just before the end of the 30 days and see if they were ready to make an offer, or if they needed other help – such as further breathing space or a referral to a free debt advice provider.

Barclaycard told the AFD that this new approach has had three main benefits: the quality of assistance given to the consumers has improved; levels of consumer engagement have increased; and the staff working on the team feel better equipped to deal with consumers in financial difficulty.

Applying the same principles when consumers act on their own behalf

Different consumers will take different approaches to negotiations. Some will want an advice agency to negotiate with their creditors and others will prefer to act on their own behalf.

Creditors should apply the same policies and practices to every case, regardless of how the consumer decides to approach negotiations. If someone is acting on their own behalf, creditors should not insist that the offer is made by the advice agency unless it is clear that the client cannot cope, or they are trying to do something that is not in the consumer's best interests. For example, if their financial statement is incoherent or they are repaying a credit card despite facing eviction for non-payment of a mortgage or secured loan.

Example: Advisers, creditors and debt collectors worked together to devise a new approach to self-help debt advice. This is now known as CASHflow and it should be used by all the advice providers that give consumers information, advice and support they need to carry out their own debt repayment negotiations.

The CASHflow process results in offers that are clearly badged and easy for creditors to identify and respond to. For more information see www.moneyadvicetrust.org

If creditors become aware that a consumer needs help they should clearly explain why they think that consumer would benefit from advice – for example if they are prioritising their budget in such a way that they will lose their home, liberty or essential goods and services.

Just saying, "We can't consider your offer until it comes from an advice agency", is not sufficient – it leads consumers and advisers to believe the creditor will not work with their customer and undermines good practice.

Objectively assessing how much a consumer can reasonably pay

The amount of money a consumer has available for debt repayment should be based on an objective assessment of the consumer's financial situation. The CFS and the CCCS budget are suitably objective methodologies to apply to all non-priority debt repayment negotiations.

For more information on good practices on using the CFS, please see the CFS creditor and adviser good practice checklists noted earlier in this publication.¹⁹

The CFS and the CCCS budget do not require priority creditors to accept pro-rata offers. Instead priority debt repayments are worked out through negotiation with individual creditors.

Once priority debts have been repaid, the consumer's financial position should be reassessed. If the person's expenditure still falls below the CFS trigger figures, or the CCCS guidelines, they should

¹⁹ For details of the CFS good practice checklist see www.cfs.moneyadvicetrust.org

not be expected to increase their offers to non-priority creditors.

If the consumer has no priority debts, then any disposable income should be shared out fairly between non-priority creditors from the outset.

If the consumer has no or very little disposable income, non-priority creditors may investigate accepting nil or token payments, even if this does not prevent a default notice being issued and registered with credit reference agencies.

Example: Co-operative Bank told us: “If a customer’s financial statement shows that they have insufficient income (sometimes they can have minus £100’s), once this has been verified, we will place them on a moratorium and review regularly. We will not refuse a payment but, instead, tell the customer that they should make a payment if and when they can. We offer moratoria for up to 30 months. We default at the six month stage and then do two annual reviews. Ultimately, we may write off if a customer is unable to start paying at that time.

This process is not a case of us being altruistic, we have found that 20 per cent or more start making payments from their own volition within three or four months of being placed on a moratorium and additionally, we have found that ‘resting’ the debt for a period of time can bring greater returns in the long run.”

Token payments

Token payments are intended to demonstrate a consumer’s willingness to repay what they owe and keep in contact with their creditors when they do not have any disposable income.

They are not supposed to be made towards essential ongoing costs or priority debts. For example a fuel provider would not be expected to accept £1 per month towards a consumer’s entire bill. Instead the consumer would be expected to pay for their on-going usage and deal with any arrears as a priority debt.

As token payments are a gesture of goodwill and good intention when no funds are available it is good practice to expect only £1 per month, and the consumer should not be expected to pay more when they cannot afford to. Otherwise the cumulative effect on consumers with multiple creditors could undermine the sustainability of any budget and repayment plan.

Steps to minimise the consumer’s indebtedness

If consumers can see that they are making inroads into their debt, they will be encouraged to stay engaged with the repayment process.

Creditors can make this happen by changing the way interest and charges associated with being in arrears are applied:

- Mortgage and secured loan providers are not expected to stop charging interest, but can stop applying certain fees and charges.
- Water, gas, electricity and phone providers aren’t expected to stop charging for usage or consumption, but they can take a pragmatic approach to charges associated with being in arrears.
- Creditors that provide running account credit – such as credit cards, store cards and catalogues – can suspend further credit and follow some of the examples noted below:

Example: Cabot Financial applies breathing space (see above) and suspends charges when a customer makes them aware that they are in financial difficulty and are seeking advice.

Example: When Shop Direct is notified that the customer is seeking money advice, the account is placed on hold to stop administration charges for 30 days. If an offer of payment is made and accepted under a debt management plan (including CASHflow), all interest and charges are stopped.

Example: Numerous major creditors freeze interest when a consumer arranges to pay less than the contractual minimum payment, and stops using the credit facility.

These policies cannot be overlooked and we would urge all creditors adopt this approach to the application of interest.

Engagement

- Creditors that provide overdrafts and transactional banking facilities can help by freezing interest and charges on inactive and defaulted accounts and taking a pragmatic approach to active accounts, if they are aware the consumer is in financial difficulty.
- Advisers should work with consumers to ensure any further credit use is responsible, they do not incur further charges for late or missed payments, they ask their bank to downgrade any fee-charging bank accounts and their expectations, in regard to what will happen to interest and charges, are managed.

Payment methods

Some consumers' debt repayment plans fail because actually making the payments is too hard or expensive. The cost associated with making payment can be direct – such as the cost of a postal order – or indirect – such as the cost of getting to an outlet that accepts a certain type of payment card.

Creditors should offer a range of free-to-consumer payment options, including standing orders, direct debits, online options and payment cards.

Putting standing order details on letters sent in response to offers of repayment is of great help.

Payment cards – such as PayPoint – should be free to use and accepted at an outlet near where the consumer lives or where they usually go, especially if they live in a rural area or have mobility problems.

Example: British Gas provides consumers with payment cards they can use at the supermarket they usually use. So if a customer of theirs shops at a local shop or supermarket that has a PayPoint, British Gas will give them a card that is accepted at that PayPoint, and set the plan to expect fortnightly or monthly payments. Fitting repayments around the consumer's usual daily life has increased sustainability.

Missed payments

A consumer may experience further problems or unexpected events that affect their ability to make the payments they have offered.

If a consumer misses a payment and stays in touch, good practice seeks to understand how they can be helped, for example, by allowing them to make up payments later, miss a payment or even extend the repayment period.

The case for reviewing offers annually

A consumer's circumstances may improve or deteriorate over time. Advisers should take steps to ensure that consumers contact their adviser and/or creditors as soon as either of these events happen.

However, some consumers' situations do not change much. In such cases some non-priority creditors and advice providers have found it cost effective to carry out reviews on an annual basis.

Example: Shop Direct reviews money advice cases on an annual basis because shorter review periods made no business sense given the cost versus the uplift in payments.

Example: Many advice providers carry out annual reviews for cost and funding reasons. Synchronising review periods of both creditors and advisers would be beneficial to all involved.

Working with appointed third parties

Consumers ask advice agencies to act on their behalf for many different reasons, often because they can't deal with matters on their own any more. Once a consumer has appointed a third party, creditors should always contact that third party in the first instance, once they are made aware of the third party appointment by the consumer or their adviser.

It can be hard for creditors to know if a third party is still acting on behalf of a consumer. However, unless notified otherwise, creditors should assume the last known third party is still acting on behalf of a consumer. All contacts must therefore be directed to the last known third party in the first instance.

Example: To ensure they did not bypass an appointed third party Capital One would write to the last known appointed third party whenever a payment was missed or a case came up for review. These communications clearly stated that if the advice agency did not respond within 28 days the creditor would assume the third party was no longer acting on behalf of the client and they would contact them directly. This allowed the advice provider either to take the required action, let the creditor know they are no longer acting on behalf of that client, or send a copy of the communication to the client and ask them to get in touch if they need further help.

Acting as an appointed third party

In cases where consumers cannot deal with matters, advisers take on the role of being an appointed third party. With this comes certain responsibilities:

Creditors should be able to contact the adviser

Sometimes matters can be resolved quickly and efficiently over the phone. Advisers acting as appointed third parties must ensure that this is possible. Advisers must ensure that their ex-directory or direct dial phone number and their office hours are on all letters they send to creditors.

Advisers must then be willing to discuss matters over the phone and return creditors' calls. When taking calls from creditors, advisers should ensure they ask security questions and confirm the caller is who they say they are and that they are complying with data protection legislation.

Answering queries when the caseworker is away

Advice providers should ensure that more than one person in their organisation can answer queries about a case. This will involve making sure case notes are up to date and that colleagues have an overview of every case. In turn this will allow creditors and clients to discuss matters while the caseworker is away from the office.

Closing cases

Community based face-to-face advice providers will have to close cases in order to meet funders requirements or to receive payment from the Legal Services Commission.

When cases are closed, advisers should write to all creditors informing them that the case is closed, that the creditor should no longer hold their details as the appointed third party, that all future communications should go to the client, and that by doing this the creditor is not in breach of OFT's debt collection guidance or the Lending Code.

This does not mean the client has stopped paying or disengaged and creditors should honour the repayment plans in place at the time a case is closed. If the client needs further help they should be advised to return to the advice agency, as services will still be provided. ●

Do you want to be part of the AFD?

The AFD wants to ensure this publication stays relevant to as wide a range of creditors and advisers as possible. To do this the AFD will continue to meet and share examples of good practice.

If you want to be part of this important work, or meet with us to discuss your debt advice or debt collections practice, or if you want to tell us about your organisation's good practice, please contact us:

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Notes

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